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February 24, 2020

BY ECF

Hon. Sarah L. Cave
United States Magistrate Judge
United States District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Cozen & O'Connor v. USAC Airways 691 LLC*

Case number: 19-cv-6765

Dear Judge Cave,

The undersigned represents Defendant in the action referenced above.

On January 27, 2020 this Court scheduled a settlement conference for March 6, 2020 at 2:00 p.m.

That date and time was selected by the Court “in light of the parties’ inability to consent to a date for the settlement conference.” (Dkt. 28). The conclusion that the parties were unable to agree on a date was evidently based on a representation made by Plaintiff’s counsel that defendant had “not responded to Plaintiff’s communications seeking Defendant’s availability.” (Dkt. 27). However, that representation was false. Attached hereto as Exhibit A is an email exchange spanning January 16 – 21, 2020 in which Plaintiff’s counsel proposed dates and defense counsel agreed to all of them except one. It is incomprehensible that Plaintiff’s counsel then told this Court that no agreement could be reached.

The March 6 date set by the court is not workable. Defendant’s principals and also defense counsel observe the Jewish Sabbath, which starts at sundown Friday, and need time to get home and prepare for the Sabbath with our families. My entire office closes early on Fridays. Moreover, that day is a scheduled day off for me when I will not be in the office. It is therefore respectfully requested that the conference be rescheduled to another date.

Defendant also wishes to advise the Court that it ceased operations in January and is insolvent. Defendant has far more liabilities than assets, and many of those liabilities are secured by liens on the remaining assets. We have informed Plaintiff’s counsel of this and have offered to settle for a relatively small amount. We have provided a financial statement and a list of the secured claims, and are awaiting

their response. In light of this development, I am not sanguine that a settlement conference will be useful.

I do wish to apologize to the Court though for not having raised the scheduling issue sooner. I simply overlooked the scheduling notice when it came in and caught the issue when I was going over my office calendar for the next few weeks earlier today. While I recognize the need to monitor the docket, sometimes there is so much that one's candle seems to burn at both ends.

I thank the Court for its accommodation in this matter.

Respectfully yours,



Robert J. Tolchin

cc: All counsel of record by ECF

Defendant's Letter-Motion to adjourn the Settlement Conference scheduled for March 6, 2020 (ECF No. 29) is GRANTED. The Settlement Conference is rescheduled to **Thursday, March 26, 2020 at 2:00 pm**, with submissions due by **Friday, March 20, 2020**. Any further requests for an adjournment of the Settlement Conference must be made jointly, providing dates and times on which the parties are available. The Clerk of Court is respectfully directed to close ECF No. 29.

SO-ORDERED 2/25/2020



SARAH L. CAVE
United States Magistrate Judge